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FISCAL IMPACT STATEMENT

LS 6532

BILL NUMBER: SB 247

NOTE PREPARED: Jan 2, 2010

BILL AMENDED:

SUBJECT: Ignition Interlock Devices.

FIRST AUTHOR: Sen. Head

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that a court may prohibit a person convicted of operating while intoxicated from operating a motor vehicle for at least 90 days if the vehicle is not equipped with an ignition interlock device and may suspend the license for one year beyond a sentence imposed for felonies or misdemeanors. It makes conforming amendments and repeals superseded provisions.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Employer-Owned Vehicles*– If an employee of the state government is guilty of OWI while operating a vehicle owned by the unit of government, the sentencing court could order the vehicle to have an ignition interlock device installed.

Explanation of State Revenues: *Class A Misdemeanor*- If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

Explanation of Local Expenditures: *Ignition Interlock Devices*- Requiring ignition interlock devices would result in minimal costs to counties. Counties do not incur any additional cost when a court orders a person convicted of operating a vehicle while intoxicated to install and maintain an ignition interlock system. Persons who are ordered to install and properly maintain an ignition interlock system on their car are to pay the entire costs of the operation. The average fee for installing an ignition interlock device is between \$70 and \$100, and the average cost of maintaining the device is between \$30 and \$60 per month. While current law does not require indigent persons convicted of OWI to pay to have an ignition interlock device installed,

courts are not required to pay the cost of installing and maintaining an ignition interlock device, either.

Under current law, courts can suspend a person's driving privileges or order the use of an ignition interlock device as a condition of probationary driving privileges if the person did not refuse the test and has no prior OWI convictions within the previous ten years. Any other person with an OWI offense that has occurred within ten years is required to have an ignition interlock device installed during the probationary period (IC 9-30-5-16). A court may substitute an alcohol treatment program using disulfuram or a similar substance in lieu of installing ignition interlock devices in the vehicles of drivers if the prior offense occurred within the past five years (IC 9-30-5-7(d)).

As proposed, sentencing courts may suspend a person's license for one year beyond a sentence imposed as either a misdemeanor or felony. The following table illustrates the maximum length of suspended time when a person must have an ignition interlock.

Drivers Receiving OWI Citations in CY 2008				
Offense Code	Description	Type of Offense	Number Who Were Guilty	Max Length of Suspended Time
IC 9-30-5-1	Operating per Se	Class A & C misdemeanor	7,589	2 years
IC 9-30-5-2	Operating While Intoxicated	Class A & C misdemeanor	14,613	2 years
IC 9-30-5-3	Prior OWI Within 5 Years	Class C or D felony	3,876	5 years*
IC 9-30-5-4	OWI Resulting in Injury	Class C or D felony	117	5 years*
IC 9-30-5-5	OWI Resulting in Death	Class C or B felony	24	11 years**
			26,219	
* Uses the advisory term of 4 years				
**Persons convicted of OWI resulting in death serve a nonsuspendible term in prison. After serving their prison sentence they could then drive with a suspended sentence for up to 10 years.				

In addition, the bill provides that a court may *not* substitute an alcohol treatment program using disulfuram or a similar substance in lieu of installing ignition interlock devices in the vehicles of drivers with prior OWIs if the prior OWI occurred less than five years prior to the current conviction. (Disulfiram is described below.)

While the fiscal effect on the counties is likely to be minimal, it is possible that the court could pay the cost if the person is indigent. A minimal estimate of the effect this would have on the courts is based on the number of persons convicted of an OWI in 2008.

As an illustration, LSA estimates that 7,280 OWI offenders could be indigent based on the percentage of misdemeanants who qualified for pauper attorney services in 2007 ($55,133 \text{ pauper cases} \div 195,360 \text{ cases disposed} = 28\%$ x 26,000 (see totals of previous table) = 7,280). While counties would not be obligated to pay for the costs of installing and operating these ignition interlock devices, the added costs could range between \$5.9 M, using the monthly costs shown earlier.

Background: Ignition Interlock Orders Between CY 2005 and CY 2009 -- When compared to the number of license suspensions for OWI, it appears that ignition interlocks are not frequently used by sentencing courts. BMV reports that 3,295 licenses were issued between 2005 and 2009 (roughly 660 per year) which restrict the holder of the license to only operate a vehicle equipped with an interlock device.

The following table shows 86 counties who ordered ignition interlocks be installed and the frequency of

these court orders.

Licenses Requiring Ignition Interlock Installation Issued Between 2005 and 2009	
Number of Licenses Issued In County	Counties in which Ignition Interlocks were Ordered
4 or Fewer (26 Counties)	Daviess, Decatur, Harrison, Jackson, Jay, Jefferson, Jennings, Knox, Monroe, Morgan, Newton, Ohio, Orange, Owen, Perry, Pike, Rush, Scott, Shelby, Spencer, Steuben, Switzerland, Tipton, Union, Washington, Wells
Between 5 and 11 (19 Counties)	Adams, Bartholomew, Fayette, Franklin, Gibson, Jasper, Kosciusko, LaGrange, Marshall, Miami, Parke, Posey, Putnam, Ripley, Sullivan, Vermillion, Wabash, Wayne, Whitley
Between 12 and 32 (19 Counties)	Benton, Blackford, Boone, Carroll, Cass, Clark, Clay, DeKalb, Dubois, Floyd, Grant, Hendricks, Howard, Johnson, Madison, Pulaski, Randolph, Starke, White
Between 33 and 100 (16 Counties)	Clinton, Dearborn, Elkhart, Fountain, Fulton, Hamilton, Hancock, Henry, Lake, LaPorte, Montgomery, Noble, Porter, Vanderburgh, Warren, Warrick
Between 101 and 275 (5 Counties)	Allen, Delaware, Marion, Saint Joseph, Vigo
872 (1 County)	Tippecanoe

Use of Disulfuram – Disulfuram is a drug that causes severe (but temporary) physical distress for persons who consume alcohol after taking the drug. Under current law, a court can only order an OWI offender to use disulfuram when the offender has had an OWI conviction within the past five years. Few courts currently use disulfuram as part of an alcohol treatment program.

A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Employer-Owned Vehicles– If an employee of a local unit of government is guilty of OWI while operating a vehicle owned by the unit of government, the sentencing court could order the vehicle to have an ignition interlock device installed.

Explanation of Local Revenues: *Class A Misdemeanor*- If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: *Bureau of Motor Vehicles.*

Local Agencies Affected: Trial courts, city courts, local law enforcement agencies.

Information Sources: Bureau of Motor Vehicles; *2007 Indiana Judicial Report.*

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